

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

**CHESTER BURKE AS NEXT FRIEND
OF ALICIA LORRAINE BURKE,**

Plaintiff,

v.

THE UNITED STATES OF AMERICA

Defendant

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5:07-CV-52 (WDO)

ORDER

Plaintiff brought this action against the United States and Curtis Smith Johnson pursuant to the Federal Tort Claims Act, 28 U.S.C. § 1346 *et. seq.*, asserting claims for the wrongful death of Plaintiff's daughter when she was hit by a United States Air Force bus on January 11, 2003. Plaintiff alleged that when his daughter was struck and killed by the bus, "Defendant Johnson was operating within the course and scope of his employment with the United States Air Force." Plaintiff filed a motion for default judgment based on Defendant Johnson's failure to file an Answer or other responsive pleading. Pursuant to the Federal Employees Liability Reform and Tort Compensation Act of 1988, 28 U.S.C. § 2679, Defendant United States of America thereafter filed a Certification of Scope of Employment and substituted itself for the individual defendant Curtis Smith Johnson with respect to any and all claims raised against him in the Plaintiff's complaint.

Upon certification by the Attorney General that the defendant employee was acting within the scope of his office or employment at the time of the incident out of which the claim arose, any civil action or proceeding commenced upon such claim in a United States district court shall be deemed an action against the United States . . . and the United States shall be substituted as the party defendant.

28 U.S.C. § 2679(d)(1). Pursuant to the Government's Certification of Scope of Employment and substitution of parties, Defendant Johnson is dismissed from this action, the motion for default judgment is dismissed as moot and the Government's Motion to Dismiss all claims against Defendant Johnson is granted.

SO ORDERED this 13th day of June, 2007.

**S/
WILBUR D. OWENS, JR.
UNITED STATES DISTRICT JUDGE**